

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER SMITH

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CIVIL ACTION

v.

INTERNATIONAL SOS ASSISTANCE,
INC., et al.

NO. 11-3125

ORDER

AND NOW, this 6th day of December, 2013, upon consideration of the Defendant's Motion for Summary Judgment (Doc. 26), Plaintiff's response (Doc. 27), and Defendant's reply (Doc. 28), it is hereby **ORDERED** that Defendant's Motion for Summary Judgment (Doc. No. 26) is **DENIED**.

It is further **ORDERED** that:

1. Plaintiff and Defendant shall address the following in their pre-trial memoranda, due **December 16, 2013** pursuant to the scheduling order filed October 17, 2013 (Doc. 37):
 - a. What substantive law governs the Plaintiff's claim.
 - b. Should Defendant wish to argue either a preemption or derivative-sovereign-immunity defense at trial, Defendant shall move to do so, shall enumerate what he believes to be the elements of the defense, and shall provide legal argument in support of the proposed defense(s).
2. If Defendant moves to raise either a preemption or derivative-sovereign-immunity defense at trial, Plaintiff shall respond no later than **December 20, 2013**.

3. If Defendant moves to raise either a preemption or derivative-sovereign-immunity defense at trial, he shall submit proposed jury instructions with respect to the fact elements of the proposed defense(s), along with legal support and citations to the record evidence on which he intends to rely, no later than **December 20, 2013**.
4. With respect to all of the above, Plaintiff and Defendant shall support their legal arguments with substantial citation to case law that is binding on this Court, and, secondarily, to case law of other federal circuit courts of appeal.

BY THE COURT:

/s/ L. Felipe Restrepo
L. FELIPE RESTREPO, J.
United States District Court